

### REMARKS

Below, the applicant's comments are preceded by related remarks of the examiner set forth in small bold font.

**Claims 9, 18-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.**

**Regarding claims 9, 18-22 the applied references fail to disclose or render, obvious the claimed limitations that iteratively adjusting the data transmission rate of the variable rate data communication channel if the signal to noise ratio of the channel can not be determined for a defined period of time as specified in the claim.**

The applicant acknowledges that the claims are considered patentable and has amended the claims.

**Claims 32 -35 are allowed. Regarding claims 32 and 33, the applied references fail to disclose or render, obvious the claimed limitations that iteratively adjusting the data transmission rate of the variable rate data communication channel if the signal to noise ratio of the channel can not be determined for a defined period of time as specified in the claim.**

The applicant acknowledges that claims 32-35 are considered patentable.

The applicant has also amended independent claims 23, 25, 31, and 36.

The fact that the applicant has addressed certain comments of the examiner does not mean that the applicant concedes any other positions of the examiner. The fact that the applicant has asserted certain grounds for the patentability of a claim does not mean that there are not other good grounds for patentability of that claim or other claims. The fact that the applicant has amended a claim does not mean that the applicant conceded the examiner's position with respect to that claim.

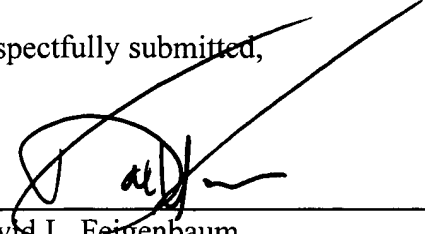
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Respectfully submitted,

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